

Attorney Docket No.: 11312-006-999 (DC-0199)
Inventors: Cheung et al.
Serial No.: 10/043,539
Filing Date: January 11, 2002
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REMARKS

Claims 28 and 30 are pending in this application. Claim 28 has been allowed. Claim 30 has been rejected. Claim 30 has been canceled. No new matter has been added by this amendment. Reconsideration is respectfully requested.

I. Allowable Subject Matter

Applicants acknowledge that claim 28 has been found allowable over the prior art of record. Accordingly, Applicants have canceled claim 30 without prejudice, reserving the right to file continuing applications for the canceled subject matter.

II. Withdrawn Objections/Rejections

Applicants acknowledge the withdrawal of the obviousness-type double patenting over U.S. Patent No. 5,587,288 and the rejections under 35 U.S.C. 112. It is also acknowledged that the objections to the specification have been withdrawn.

III. Rejection of Claims under 35 U.S.C. §112

Claim 30 has been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description and enablement requirements. Claim 30 has also been rejected under 35 U.S.C. §112 for reciting the limitations "Staphylococcus aureus, S. epidermidis, S. haemolyticus or S. saprophyticus" and "isolated and purified lead compound of claim 28." It is suggested that these phrases lack antecedent basis. In light of the cancellation of claim 30, it is respectfully submitted that these rejections are

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moot. It is therefore respectfully requested that these rejections be withdrawn.

IV. Rejection of Claims under 35 U.S.C. §102

Claim 30 has been rejected under 35 U.S.C. §102(a) as being anticipated by Tegmark et al. (2000). Claim 30 has also been rejected under 35 U.S.C. §102(b) as being anticipated by Manna et al. (1998). Claim 30 has further been rejected under 35 U.S.C. §102(e) as being anticipated by Hurlburt et al. (U.S. Patent No. 6,699,662) or Doucette-Stamm et al. (U.S. Patent No. 6,380,370). In light of the cancellation of claim 30, it is respectfully submitted that these rejections are moot. It is therefore respectfully requested that these rejections be withdrawn.

IV. Double Patenting

Claim 28 has been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being anticipated over claim 22 of co-pending Application Serial No. 11/063,308 ('308). Applicants respectfully traverse this rejection.

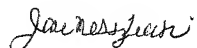
Claims 1-3 and 5-6 are currently pending in the '303 application. Because claim 22 is not pending in the '303 application, it is respectfully requested that this rejection be withdrawn.

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V. Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, issuance of the allowed claim is earnestly solicited.

Respectfully submitted,



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